

ENTERED

January 16, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

RODERICK L REESE, TDCJ # 01027930,	§	
	§	
	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. 3:17-CV-0389
	§	
LORIE DAVIS,	§	
	§	
Respondent.	§	

MEMORANDUM OPINION AND ORDER

In this habeas corpus action, the Court granted summary judgment for Respondent and entered final judgment (Dkt. 31, Dkt. 32) on September 25, 2018. On December 21, 2018, Petitioner Roderick L. Reese filed a notice of appeal (Dkt. 33) and a motion for extension of time to appeal (Dkt. 34). Petitioner states that he attempted to file a timely appeal on November 5, 2018, but “‘inadvert[e]ntly’ by mistake put the wrong heading and cause number” on his notice of appeal, causing it to be filed in Civil Action No. 4:17-2844.

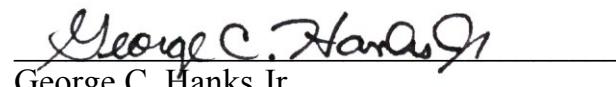
Federal Rule of Appellate Procedure 4(a)(1)(A) provides that an appeal in a civil action must be filed within 30 days after entry of the judgment or order being appealed. The district court may extend the time to file a notice of appeal if (1) a party moves for an extension no later than 30 days after the deadline and (2) the party shows “excusable neglect or good cause.” FED. R. APP. P. 4(a)(5)(A).

In this case, Petitioner’s deadline to file his notice of appeal was October 25, 2018, which is 30 days after judgment was entered on September 25, 2018. Even if

Petitioner's explanation could suffice as excusable neglect or good cause under Rule 4(a)(5)(A)(ii), this Court would lack authority to extend his deadline because his motion for extension of time was filed outside the 30-day period. *See* FED. R. APP. P. 4(a)(5)(A)(i); *Stotter v. Univ. of Texas at San Antonio*, 508 F.3d 812, 820 (5th Cir. 2007). Therefore, Petitioner's motion for extension of time to appeal (Dkt. 34) is **DENIED**.

The Clerk of this Court is instructed to send a copy of this order to the parties.

SIGNED at Galveston, Texas, this 16th day of January, 2019.



George C. Hanks Jr.
United States District Judge